IN THE PUNJAB AND HARYANA HIGH COURT AT

CHANDIGARH

CWP No.14896 of 2007
Date of decision: 06.12.2007

Suresh Kumar.

…Petitioner

Vs.

The State of Punjab and others.

…Respondents

CORAM:

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr. A.S. Khaira, Advocate
for the petitioner.

ADARSH KUMAR GOEL, J.

This petition seeks quashing of the order of punishment dated 20.5.2003, Annexure P-1, stopping three annual grade increments of the petitioner with cumulative effect.

Case of the petitioner is that he was employed in the Central Cooperative Bank Limited, Ludhiana. He was given chargesheet alleging tampering of office record and committing embezzlement, negligence, causing of loss, non-compliance of orders of higher authorities and cheating. Inquiry was held and except the charge of non-compliance of orders of higher-authorities, other charges were held to be proved. After giving him show cause notice, order of stoppage of three annual grade

increments with cumulative effect, was passed. The petitioner preferred an appeal which has been dismissed on 11.11.2003, except for modifying the punishment to stoppage of three increments and directing that the bank should obtain approval of the Registrar, Cooperative Societies for keeping the petitioner under suspension beyond six months and on failure to do so, the petitioner be paid as per rules. The petitioner, thereafter, filed a revision petition which was also dismissed on 30.5.2006.

We have heard learned counsel for the petitioner.

The charge of misconduct has been held to be fully proved after inquiry and no ground has been shown for interference with the order of punishment imposed. It is well settled that in departmental proceedings disciplinary authority or the appellate authority is the best Judge of facts and of appreciation of evidence and a writ Court normally does not interfere with the factual findings unless the same are based on no evidence or are perverse. Reference may be made to judgment of the Hon'ble Supreme Court in ***Apparel Export Promotion Council v. A.K. Chopra*** AIR 1999 SC 625.

The last contention raised by learned counsel for the petitioner is that the petitioner remained under suspension for more than six months without prior approval of the Registrar, Cooperative Societies, but the Appellate Authority has directed that approval may be now taken. Reference has been made to Rule 9 (4) of the Punjab State Cooperative Financing Institutions Service Rules, 1958, which is as under:-

> "9(IV) No employee in any cases shall be kept under suspension for a period exceeding 6 months at a time except the cases with the prior approval of the Registrar."

It has been stated that the petitioner was suspended on 19.8.2000 and was reinstated on 23.5.2003.

We find merit in the contention raised in view of Rule relied upon.

The Revisional Authority has referred to the judgment of the Hon'ble Supreme Court in ***Govt. of A.P.*** ***v.*** ***V. Sivaraman*** AIR 1990 SC 1157, for observing that suspension did not come to an end on expiry of six months and taking prior approval was a procedural lapse. The said judgments being on different set of rules, is distinguishable.

The petitioner has been paid only subsistence allowance for the suspension period, though suspension beyond six months was not permissible. He will, thus, be entitled for full wages for the suspension period exceeding six months.

The petition is disposed of accordingly.

(ADARSH KUMAR GOEL)
JUDGE

December 06, 2007 **(KANWALJIT SINGH AHLUWALIA)**

ashwani **JUDGE**